

RECORDS DESTRUCTION

1. We have received two letters in reaction to the DCI's 2 June letter to Senators Mansfield and Scott, concerning lifting the moratorium on records destruction:

a. Senator Hatfield has requested that no records of any sort be destroyed until after the full Senate Select Committee has had an opportunity to review the matter.

b. Congresswoman Abzug has requested that the Agency not destroy records covered by her bill, H.R. 12039. This bill applies to CHAOS and mail intercept records and records resulting from warrantless or non-consensual electronic or mail surveillance or surreptitious entry against American citizens or permanent resident aliens. In addition, Congresswoman Abzug expresses concern that the Agency may destroy records which, although "subject to investigation," were never in fact investigated and relate to Agency wrongdoing. Finally, she asks for immediate confirmation that the Agency will not act to destroy any document until the Senate leadership gives its approval.

STATINTL

2. Senator Hatfield's request should present no problems. On 4 June [REDACTED] discussed lifting the records moratorium with Frank Valeo and Bill Hildenbrand, who are handling this matter for Senators Mansfield and Scott respectively. Both were planning to raise the question with the Select Committee leadership before making an affirmative response to the Agency's request. Therefore, with respect to Senator Hatfield's letter, it is recommended that the DCI phone him and assure him that the Agency had no objection to the Select Committee's reviewing the matter and that, indeed, it was his understanding that Senators Mansfield and Scott were intending to raise the matter with Senators Inouye and Baker.

3. Chairwoman Abzug has taken the position that the moratorium should be extended to records which might comprise the subject matter of her bill, H.R. 12039, until Congress has an opportunity to act on it. She made this request on 24 February and reiterated it in her 4 June letter. The DCI has not acceded to this position, but has maintained that the moratorium on the destruction of Agency records would be the subject of discussion by

the Agency with Senators Mansfield and Scott, and that destruction of Agency material would be in accordance with Presidential directives and as permitted by law. The DCI stated this position in an 8 March letter to the Chairwoman and held to it during a hearing before her Subcommittee on 28 April.

4. Although we have not agreed with Chairwoman Abzug's position in principle, as a matter of fact, none of the materials covered by her bill are currently scheduled for destruction because of pending litigation, investigations or other reasons. It is therefore recommended that the DCI reply in writing to Chairwoman Abzug indicating that the records covered by her bill are not now scheduled for destruction. In addition, the reply should point out that records scheduled for destruction do not relate to undetected criminality and that, indeed, the DCI is required by Executive Order 11905 to report evidence of questionable activity to the Attorney General, and 28 U.S.C. 535(b) requires him to report to the Attorney General evidence of violations of Title 18. Finally, the reply should inform the Chairwoman that the Agency intends to wait for an affirmative response from the Senate leadership before proceeding with destruction.